



Eric M. Hocky
Direct Dial 215 640 8523
Email: ehocky@thorpreed.com

ATTORNEYS AT LAW SINCE 1895

VIA ELECTRONIC FILING

Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street SW
Washington, DC 20024

March 3, 2010

226531

Re: STB Finance Docket No. 35205
U S RAIL Corporation
- Lease and Operation Exemption -
Winamac Southern Railway Company and
Kokomo Grain Co., Inc.

Dear Ms. Brown:

This letter is being submitted by U S RAIL Corporation ("U S RAIL") as the status report required by the Board in its decision served February 2, 2010 in this proceeding.

As noted in the decision, the effectiveness of the exemption with respect to the 3.0 miles of incidental trackage rights over the TP&W-owned line has been stayed while WSRV and TP&W attempted to resolve their differences concerning their rights under a 1995 trackage rights agreement between them.

Unfortunately, WSRV and TP&W have been unable to resolve their disagreement concerning their rights under the 1995 trackage rights agreement, nor have they reached agreement on a new trackage rights agreement or on acceptable alternative commercial arrangements to move the traffic over the 3.0-mile segment of track. Accordingly, WSRV filed an action against TP&W in state court in Indiana with respect to the contract issues under the 1995 trackage rights agreement.¹ The action was commenced on or about January 26, 2009.

U S RAIL understands that on January 11, 2010, TP&W filed a motion for judgment on the pleadings regarding the assignability of the 1995 trackage rights agreement. WSRV filed its response on January 28, 2010, the effect of which was to convert the motion to one for summary judgment. TP&W received an initial 30-day extension of time until March 8, 2010, to file its rebuttal. On March 1, 2010, TP&W filed a motion for a further extension through April 7, 2010. WSRV consented to the extension. We do not know how long it will take for the Indiana court to issue its decision on the motion once briefing has been completed.

¹ U S RAIL is not a party to the Indiana state court litigation. All information provided in this report on the litigation is based upon the advice of WSRV's counsel.

Pittsburgh

Philadelphia, Pa

Princeton

Washington

Thorpe Reed & Armstrong, LLP
One Commerce Square
12405 Market Street
Suite 1500
Philadelphia, PA 19103-7041
215 640 8500
215 640 8501 Fax



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Since WSRV has diligently pursued its rights under the 1995 trackage rights agreement, U S RAIL believes that the stay should continue in effect.

Please let us know if the Board requires any additional information.

Respectfully,

Eric M. Hocky

EMH/e

cc (by email):

Louis E. Gitomer, Esq.
Thomas F. McFarland, Esq.
Joseph R. Fullenkamp, Esq.
Gabriel D. Hall
Brad Ortman
Scott Ortman

Pittsburgh

Philadelphia

Princeton

Washington

Thorpe Reed & Armstrong, LLP
One Commerce Square
2005 Market Street
Suite 1000
Philadelphia, PA 19103-7041
215 640 8500
215 640 8511 Fax

(P0094397)P0094397